

**Probation Services Task Force Meeting Minutes**  
**California State Association of Counties (CSAC)**  
**Sacramento, California**  
**June 22, 2001**

**Task Force Members Present:** Hon. Patricia Bamattre – Manoukian, Hon. Denny Bungarz, Hon. Trish Clarke, Mr. Alan Crogan, Mr. Bill Davidson, Hon. Ronn Dominici, Hon. Terry Friedman, Ms. Sheila Gonzalez, Mr. Phil Kader, Mr. Bill Mahoney, Hon. Kevin McCarthy, Mr. Ralph Miller, Hon. Frank Ochoa, Mr. John Rhoads, Mr. Mike Roddy.

**Task Force Members Not Present:** Mr. Bryce Johnson, Mr. Michael Johnson, Hon. William LeBov, Hon. Mike Nevin.

**AOC Staff Present:** Ms. Audrey Evje, Ms. Maureen O’Neil, Mr. Ron Overholt, Mr. William Vickrey, Mr. Jonathan Wolin.

**CSAC Staff Present:** Ms. Elizabeth Howard, Mr. Rubin Lopez, Mr. Steve Szalay.

**Consultant:** Mr. Alan Schuman.

**I. Welcome and Introduction – Hon. Patricia Bamattre-Manoukian, Chair**

- A. Introduction of new PSTF members, Hon. Trish Clarke and Hon. Ronn Dominici
- B. Overview of the Task Force
  - 1. Charge is to evaluate probation services in addition to resolving the issue of the appointment/evaluation of the CPO.
  - 2. Development of the California Model
- C. Summary of Outreach Efforts (Audrey Evje)
  - 1. Surveys sent out to Courts, counties, district attorneys, public defenders, Chief Probation Officers in January; responses from approximately 50 CPOs, less from other stakeholders.
  - 2. PSTF members and staff have attended numerous conferences and meetings involving stakeholders, including: Delinquency conference, California District Attorneys Association (CDAA), Family Violence conference, meetings involving CPOs, DPOs, judicial officers. (Summary of May 18, 2001 presentation on stakeholder comments found in the meeting minutes – TAB 1 – and summary of comments from CDAA and Family Violence outreach events found in TAB 3)

3. Consensus exists among stakeholders regarding the improvement of services, provision of more preventive services, the need for lower caseloads, etc.
- D. PSTF's last meeting was attended by probation representatives from Texas, Oregon, and Arizona.

## **II. Review of the California Probation Model – Hon. Patricia Bamattre-Manoukian**

- A. Consensus was reached on several fundamental principles (review of components of the California model – TAB 2)
- B. Several issues remain to be resolved, primarily that of the inclusion of juvenile detention facilities in the model developed by the PSTF.
- C. Other remaining issues include liability issues; how the collaborative appointment process will work; the role of the AOC and local courts in the administration of probation; who the CPO will report to; funding; standards/guidelines; and composition of the proposed Judicial Council Advisory Committee.

## **III. Feasibility of the California Probation Model – Ms. Sheila Gonzalez**

- A. Concern by court administrators that the task force not recommend too much change in a short period of time, due to many changes in the courts in the last five years (with changes related to Trial Court Funding, etc.)

Administrator of the Courts Bill Vickrey's comments on preliminary recommendations:

- B. Acknowledgement of enormity of the task force's charge
- C. Comments on the California Model:
  1. Appointment process
    - a. Partnerships with court and counties are very important
  2. Administration
    - a. If the PSTF recommends a shift in administrative duties, the AOC is willing to assume fiscal responsibility for standards development and support of a Judicial Council Advisory Committee.
    - b. Administration should be decentralized – want to avoid statewide administration of programs to

maintain community involvement in local programs.

- c. Should attempt to enhance the relationship between the courts and probation.

### 3. Funding

- a. Goal is to enhance probation's resources – in order to achieve, PSTF might want to consider the inclusion of options in terms of coordinating targeted funding for particular types of programs or targeted funding from the state to support the development of standards
- b. Often shifting the funding responsibility without thinking through a workable solution will not result in enhanced resources
- c. Need to think about providing transition paths over a period of time.

### 4. Liability Issues

- a. If state assumes funding responsibility, it follows that liability would also shift to the state.
- b. Comments regarding detention facilities will be reserved until the end of the discussion.

### 5. Standards/Guidelines/Establishment of Advisory Committee

- a. Believes that the Judicial Council would support the creation and ongoing activities of a standing advisory committee that would be charged with developing probation service/employee training standards.

### 6. Detention/Treatment facilities

- a. Great deal of concern exists among court personnel regarding court supervision of correctional facilities, since the court (which is intended by the Constitution to be a neutral body) would be placed in an uncomfortable position if it had to deal with lawsuits regarding its own facilities.
- b. Facilities Task Force recommended shifting responsibility of court facilities from the counties to the state – this change would result in the state incurring a significant cost. Aside from the policy concern, we have to ensure that our agendas are not competing with each other in terms of funding. Must be realistic about funding issues, so that they don't challenge other initiatives.

- c. A nexus exists between juvenile detention facilities and treatment facilities, and good reasons exist for maintaining that connection in terms of accountability.
  - d. Judicial Council probably would not support taking on the administration of detention facilities.
- 7. Think about alternatives – so that have more options when the recommendations reach the legislative arena

CSAC Executive Director Steve Szalay's comments:

- 1. Look at all of probation services and determine how they should be delivered in the future, in terms of crossover with education, mental health, and social services
  - a. Perhaps this is a flexibility issue at the local level
- 2. Appointment Process
  - a. Need to restructure this process
- 3. Perhaps the task force should develop two or three models and recommend one
  - a. Can lose if choose a strategy in which only one model is suggested to the Legislature
  - b. Another option is to give the Legislature flexibility and make sure that you are at the table to negotiate with them.

## **Discussion**

- Trial Court Funding led to the courts becoming more responsible to the Judicial Council; the task force should keep this in mind because CPOs require a certain amount of independence to work effectively
- When writing the report, should constantly be answering the questions, "How?" and "Why?"- Legislative reports should be drafted this way, must be thorough and complete.
- Present Legislature with counter-responses to potentially controversial issues, as well as options.
- The task force has examined models all over the country, and has looked at probation in every county in California; we are now developing a California-specific model based on all information gathered, and are working through some remaining issues.

## **IV. Detention and Treatment Facilities – Moderated by Alan Schuman**

### **A. National Statistics**

1. 35 of 50 states provide juvenile probation services through the judicial branch of government at either a state or local level.
2. 10 states provide juvenile probation services through the judicial branch at the **state** level. (Connecticut, Iowa, Hawaii, Kentucky, Nebraska, North Carolina, North Dakota, South Dakota, Utah, West Virginia)
3. 25 states provide juvenile probation services through the judicial branch at a **local** level (Alabama, Arizona, Arkansas, Colorado, Georgia, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Jersey, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, Washington, Wisconsin, Wyoming)
4. 21 of the 35 states that provide juvenile probation services through the judicial branch also provide detention facilities.
5. 19 of the 35 states that provide juvenile probation services through the judicial branch provide other treatment facilities (foster care and group homes)
  - Connecticut and Colorado only provide detention facilities
  - The states that provide detention and other treatment facilities are Alabama, Arizona, Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Missouri, Montana, Nevada, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Wisconsin.

## **B. Expert Opinions**

1. Hunter Hearst, Sr. – National Center for Juvenile Justice
  - Probation should make admission (intake) and release decisions no matter where it is located/who administers it.
  - There would be a conflict of interest if judges controlled detention facilities and used them as a short-term sentencing option.
  - Judges have a big concern about the drain of resources on detention facilities compared to additional judicial officer and probation officer resources.
2. Burt Aunan – Fifth Judicial District of Iowa
  - In Iowa, detention facilities are controlled by the judicial branch
  - Iowa is interesting because in 1985 it changed from a system like California's to one in which the judiciary controls probation services.
3. Chief Probation Officer – Ohio
  - Consensus exists between Ohio and Iowa's probation experts
  - In Ohio, the judiciary controls probation services
  - It is advantageous to have all juvenile services and facilities under the same system working together under the same administration

- More effective team approach in the provision of services to juveniles if the judiciary controls detention facilities
- Uniform standards assist in the consistent use of detention facilities
- A single system ensures better public information policies
- Detention bed shortages get more judicial attention when everyone works for the judicial branch of government.

### **Discussion:**

- Probation in California has the authority to admit and release juveniles from detention, primarily before the hearing; some types of cases are mandated by law to be referred to the district attorney.
- Should focus on maintaining local probation control of admission and release from facilities, since some authority has been legislatively removed from probation (some cases – Prop 21 for example – are mandated to be referred to the district attorney)
- Even if detention facility responsibilities are not with the judiciary, probation can still retain admission and release authority.
- Conditions of confinement cases used to be tried in federal court, now they are tried in state court.
- It is very awkward for judges to try civil rights cases in facilities
- This situation is akin to that of the management problem of appeals between the superior courts and the courts of appeal. The problem was resolved when an internal system of appeals within the superior courts was devised, in which only certain superior court judicial officers hear appeals cases.
- Basic staffing standards are necessary in order to elevate the status of probation.
- Judges are going to oppose judicial responsibility of detention facilities.
- The task force needs to make recommendations so that the work of the future task forces is not derailed.
- The facilities issue is very important for a large county like Los Angeles; Los Angeles used to have a good system in which DPOs were stationed in police stations to handle intake instead of having to drive out to juvenile facilities.
- It is possible to envision a system in which probation retains decision-making authority related to admission and release, but the facilities themselves are run by another entity (e.g. the county, the judicial branch) in a way that local judicial officers are not involved.
- So far the task force has not discussed juvenile camps; we need to address them since probation is responsible for camp programs and aftercare.

- Inadequacy of special education and mental health in facilities is a big issue in Los Angeles County. One problem with the education system stems from the confusion in the administration of educational services.
- Can't avoid the fact that facilities are a liability – must try to locate them with the entity that can best administer them.
- The operation of the facilities must be linked to the facilities themselves – like the court facilities issue; it is ironic that the task force is trying to do the opposite of what another task force recommended.
- Judges have a statutory responsibility to inspect facilities (WIC 209) – this would have to change if the court assumed responsibility.
- Need a legal opinion as to whether a constitutional amendment would be required to change policies in charter counties.
- Staffing of the detention facilities is a big issue – one reason why it is important to resolve who is responsible for detention facilities.
- Courts should continue to provide admission and release discretion to probation, probation services should be provided by probation.
- Standards need to be developed by the Probation Advisory Committee
- Related to the conflict of interest issue involving the courts, one similar example can be found in the court employee issue. The Chief has appointed two appellate justices to handle these types of cases to remove local judges that supervise court employees from the case; the Chief can also assign judges from other counties to hear cases if there is a conflict.
  - Creative resolutions like this can be found to address the detention facilities issue
- It is clear that the AOC does not want to assume responsibility for detention facilities.
- In the Arizona model, the state handles most liability issues in detention facilities unless they are purely related to the facility; detention employees are supervised by the state.
- Need to look at long-term best practices regardless of the current economic situation.
- Must present the report to the Legislature in a way that doesn't sound expensive right away, must present short-term and long-term recommendations.
- We should first focus on which services we want to include in facilities first, what their needs are, and then work out who should control facilities

### **C. Areas of Consensus**

1. Probation should continue to have admission and release functions.
2. Improved and standardized services in detention facilities and camps are necessary.

3. Statewide standards should be determined by a Probation Services Advisory Committee, including staffing standards for detention facilities.
  - Diligent enforcement of standards
  - The Advisory Committee will work collaboratively with the Board of Corrections to promulgate and enforce statewide standards
  - Problem: existing standards are advisory in nature; they are not enforceable.
4. Staff training should be provided by probation in detention facilities and camps.
5. Detention facilities and camps should be staffed and supervised by probation.
  - Doesn't exclude treatment facilities, but should be left to local jurisdictions to decide.
6. If probation is placed under the courts, liability related to supervision/personnel (any issue other than those related to detention facilities) is a responsibility of the state.
7. Liability related to facilities will remain with the county if they continue to be responsible for detention facilities.
  - If counties continue to be responsible for facilities, they will also retain some control over the facility's amenities and size, etc.
8. Need for a probation liaison in detention facilities (if probation does not fall under the courts)

#### **D. Items that Lack Consensus**

1. Qualifications of detention facility & camp staff – same as those of DPOs?
  - Important to have options for staff to move out of detention facilities (a career path)
  - But options should be phrased in a manner that does not encourage employees to leave detention facilities or demeans detention staff.
  - Need high professional standards for all probation staff.
  - Probation officers should start out in detention facilities and camps.
  - Encouraging the movement of people throughout the people creates the problem of having to constantly train people, having inexperienced staff
  - Agreement on the need for high standards, not that DPOs need to staff detention facilities
2. Court model – could arbitrators be assigned by the Chief to resolve facility cases?
  - The AOC does not want to assume responsibility for detention facilities



- The AOC is better equipped to develop the infrastructure to support detention facilities
3. Why can't have a parallel track involving collaboration between state and counties for detention facilities? CPO can work for the AOC in terms of probation services, and for the county in terms of detention. Probation can receive split funding from the state and county. (the Arizona model)
  4. Consensus on fundamental principles?
  5. Status of DPO Employees – will they become court employees?
  6. Facilities issue needs to be resolved for Los Angeles buy-in to model
  7. How flexible is the AOC regarding the detention facilities issue?
  8. Need to figure out how the California model could work for Los Angeles.
  9. Change will take time – minor successes lead to big successes (example of Trial Court Funding, which began in 1987)
  10. Is there a hybrid model that could be developed so that local courts have discretion over taking over detention facilities?
  11. Next steps/Future work of Task Force:
    - Ask for more time to complete report/extend the task force for a few months
    - If can't work through the detention issue, can pass it on to the next group along with all research and analysis
    - In report, if some issues can't be resolved, should identify the issue in the report, specify the goal and that more time is necessary to analyze the issue.
    - Can include work of other states in report if can't come to a decision.
    - Should try to resolve as many difficult issues as possible, so that work is not derailed by future committees.
    - The task force can either brief the future advisory committee on the problems that were encountered, or it is possible that members of this task force would be members of the advisory committee.
    - The creation of a Judicial Council Advisory Committee would result in the buy-in of the Judicial Council and the courts in running probation.
    - Need to avoid conflicts with other parts of the AOC budget (i.e. the facilities issue)
    - Big reforms are not going to be considered in this economic and political climate, due to the electricity crisis. Legislators are not going to respond positively to major changes.

- In report, should establish principles and make interim suggestions, then resolve more controversial issues in a better political climate.
- However, lack of funding shouldn't stop the task force from trying to determine the best blueprint for change related to probation.
- Recommendations of Services Subcommittee should be placed at the forefront of the report, if the task force wants to put aside the detention issue temporarily.

#### **E. Next Meeting:**

1. Invite people from other states and anyone that wants to comment on the model. There might be other models that we haven't considered. We need to think outside the box.
    - Outside presentations should be brief, so that facilities issue can be addressed at next meeting.
    - Guests will present on the morning of the first day of the meeting.
    - Invite someone from Iowa (Burt Aunan), a judge, someone from Michigan and New Jersey because they are large states, Orlando Martinez – State Commissioner of Juvenile Justice for Georgia
    - Videotape presentations
  2. Invite representatives from Los Angeles to next meeting
  3. Address remaining issues.
  4. Revisit fundamental principles and develop them further at next meeting
  5. Facilities Models Working Groups – each group will make a 10-minute presentation at the next meeting on how each of these models would work.
    - Audrey Evje will coordinate conference calls between members of the working groups and develop a format so that all working groups address the same points.
    - Working groups will present on the afternoon of July 19, 2001.
- a. Keep facilities with probation under the jurisdiction of the local courts or through AOC administration (separate AOC division)
    - Chair: Frank Ochoa
    - Members: Denny Bungarz, Bill Davidson, Mike Roddy
  - b. Separate facilities from probation services; keep facilities under county control but develop agreement with probation departments for the administration of services in facilities (Arizona model)

- Chair: Sheila Gonzalez
  - Members: Trish Clarke, Alan Crogan, Kevin McCarthy
- c. Separate facilities from probation services, keep them with counties but the CPO would wear two hats and oversee both departments
- Chair: John Rhoads
  - Members: Ronn Dominici, Bill LeBov, Bill Mahoney
- d. Los Angeles Model (will present a model that would work for Los Angeles)
- Chair: Ralph Miller
  - Member: Terry Friedman

#### **F. Final Announcements**

1. Supervisor Nevin could not attend the meeting due to an unexpected emergency.
2. Contact Audrey Evje if anyone thinks of other presenters they would like to hear from.